



Office of the Attorney General
State of Texas

January 31, 1996

DAN MORALES
ATTORNEY GENERAL

Mr. Donald G. Vandiver
Office of the City Attorney
City of Lubbock
P.O. Box 2000
Lubbock, Texas 79457

OR96-0142

Dear Mr. Vandiver:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 37974.

The City of Lubbock (the "city") received a request for information relating to traffic accidents or incidents occurring on December 15, 16, 17, and 18, 1995. You claim that the requested information is maintained by the city only in the form of accident reports. You contend that this information is excepted from required public disclosure under section 552.101 of the Government Code citing amendments to the traffic laws made by the Seventy-fourth Legislature.

You claim that section 550.065 of the Transportation Code contradicts amendments made to V.T.C.S. article 6701d, section 47 by the Seventy-fourth Legislature. Article 6701d, as well as other statutes relating to transportation, was repealed by the Seventy-fourth Legislature upon adopting the Transportation Code. Act of May 1, 1995, 74th Leg., R.S., ch. 165, §§ 1, 24, 1995 Tex. Sess. Law Serv. 1025, 1870-71 (adopting Transp. Code; repealing certain acts and articles compiled in civil statutes). However, the Seventy-fourth Legislature also without reference to its repeal amended section 47 of article 6701d, V.T.C.S. Act of May 27, 1995, 74th Leg., R.S., ch. 894, § 1, 1995 Tex. Sess. Law Serv. 4413, 4414. The repeal of a statute by a code does not affect an amendment of the statute by the same legislature that enacted the code. Gov't Code § 311.031. Accordingly, the amendment to section 47 is preserved and given effect as part of the Transportation Code. *Id.* There is no need, therefore, to harmonize the two provisions. Section 47, V.T.C.S. article 6701d, is the statutory predecessor of Transportation Code section 550.065, and its amendment is the current law.

Section 47 provides, in pertinent part, as follows:

(a) Except as provided by Subsection (b) of this section, all accident reports made as required by this Act or Section 4, Texas Motor Vehicle Safety-Responsibility Act (Article 6701h, Vernon's Texas Civil Statutes), [now codified as Transportation Code section 601.004] by persons involved in accidents, by garages, or by peace officers shall be without prejudice to the individual so reporting and shall be privileged and for the confidential use of the Department [of Public Safety] and agencies of the United States, this state, or local governments of this state having use for the records for accident prevention purposes.

(b)(1) The Department or a law enforcement agency employing a peace officer who made an accident report is required to release a copy of the report on request to:

(A) an agency described by Subsection (a) of this section;

(B) the law enforcement agency that employs the peace officer who investigated the accident and forwarded the report to the Department;

(C) a court in which a case involving one of the persons involved in the accident is pending pursuant to a lawful subpoena; or

(D) a person who provides the Department or the law enforcement agency with two or more of the following:

(i) the date of the accident;

(ii) the name of any person involved in the accident;

or

(iii) the specific location of the accident.

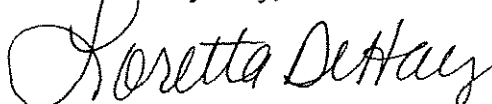
(2) The Department or a law enforcement agency shall request information on a written form to be determined by the Department or agency for the purpose of determining whether the person or entity requesting the information is eligible to receive such information as provided by Subdivision (1) of this subsection.

We have reviewed the representative samples submitted for our consideration. The information appears on its face to be Department of Public Safety accident report

forms. Accordingly, this information is confidential and must not be released except in compliance with section 47(b)(1)(A) - (D).¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

LRD/LBC/ch

Ref: ID# 37974

Enclosures: Submitted documents

cc: Adriene Anderson
Anderson Courier Service
1880 South Dairy Ashford, Suite 673
Houston, Texas 77077
(w/o enclosures)

¹We note that Government Code section 552.228(c) answers your question concerning your duty to copy information onto a diskette supplied by the requestor.